

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CHARLES SMITH §
VS. § CIVIL ACTION NO. 1:05cv754
OWEN MURRAY, ET AL. §

MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE's REPORT AND RECOMMENDATION

Plaintiff Charles Smith, an inmate at the Stiles Unit, proceeding *pro se*, brought this civil rights suit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed without prejudice for want of prosecution.

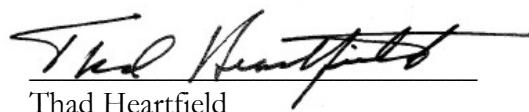
The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.¹

¹ On September 21, 2006, plaintiff filed a motion to voluntarily dismiss this action. Pursuant to FED. R. CIV. P. 41(a), plaintiff may dismiss the action without prejudice prior to the service of an answer or of a motion for summary judgment. In this action, the defendants have not been served as of this date. Accordingly, the report will be adopted to the extent it recommended dismissal without prejudice.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this the 25 day of October, 2006.



Thad Heartfield
United States District Judge